

# Exhibit A

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*Attorneys for Defendant*

*USANA Health Sciences, Inc.*

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK (FOLEY SQUARE)**

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DEVPAT AB

Plaintiff,

vs.

USANA HEALTH SCIENCES, INC.

Defendant.

Case No. 1:17-cv-2858 (JGK) (KHP)

**DECLARATION OF PATRIQUE  
RICHARDS IN SUPPORT OF MOTION  
TO DISMISS OR, IN THE  
ALTERNATIVE, TO TRANSFER VENUE**

Judge John G. Koeltl

I, Patrique Richard, hereby declare as follows:

1. I am over the age of twenty-one (21) and possess personal knowledge of the matters set forth in this declaration and if called as a witness to testify thereto, I could and would competently so testify.

2. I am employed as the Executive Director of Investor Relations and Business Development for USANA HEALTH SCIENCES, INC. ("USANA"), the Defendant in this matter.

3. In my position and through my involvement and participation in this matter, I am personally familiar with the matters to which I testify herein.

4. USANA is in the business of selling high quality, science-based health products through direct sales.

5. USANA is a Utah corporation with its principal place of business in Utah.

6. USANA does not maintain any business offices or distribution centers in New York.

7. All relevant USANA employees that would have information pertinent to Plaintiff's claims are located in Utah.

8. USANA is not aware of any employees that would have information related to Plaintiff's claims that are located in New York. In fact, USANA does not have any employees in New York.

9. The design of USANA's marks, including the one upon which Plaintiff claims infringement, occurs in Utah.

10. USANA primarily advertises its products through direct sales of its network of independent distributors. USANA also advertises through marketing materials, all of which are created in Utah, and its own website, which is operated and maintained in Utah.

11. As discussed in Plaintiff's Complaint, USANA has also appeared on the Dr. Oz show to discuss its products, which show is filmed in New York City.

12. However, USANA discussed its MYSMARTSHAKE product on the Dr. Oz show only one time, which was in June 14, 2016. No other times has USANA discussed its MYSMARTSHAKE product on the Dr. Oz Show.

13. Indeed, the Dr. Oz show is a small fraction of the advertising done by USANA.

14. In fact, USANA cannot attribute any significant sales of the allegedly infringing product as the result of its appearance on the Dr. Oz show.

15. USANA does not directly target New York with its advertising or marketing. Rather, USANA is a global company that advertises mainly online to the entire world.

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 3<sup>rd</sup> day of July, 2018.

/s/ Patrique Richards  
Patrique Richards